

SENATE BILL No. 529

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-22.6.

Synopsis: Pipeline construction standards. Requires the pipeline safety division (division) of the utility regulatory commission, in consultation with the department of agriculture (department), to adopt emergency rules to establish standards for the construction of pipelines that will be located in Indiana. Requires the rules to be adopted not later than September 1, 2007. Requires the division to consider adopting less burdensome or less costly standards for pipeline companies that locate a pipeline along existing rights of way or easements. Specifies certain standards that the rules must include. Provides that the standards are not binding on affected landowners. Requires the division to send a copy of the standards and other required information to: (1) a pipeline company that proposes to construct a pipeline in Indiana; and (2) all landowners affected by the proposed pipeline. Requires: (1) the director of the division; and (2) the director of the department; to designate one or more employees as project coordinators for each proposed or ongoing pipeline project. Requires the division and the department to make certain information available on their respective agencies' web sites.

Effective: Upon passage.

Jackman

January 23, 2007, read first time and referred to Committee on Utilities & Regulatory Affairs.

C
o
p
y



Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 529

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-22.6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]:

4 **Chapter 22.6. Pipeline Construction Standards**

5 **Sec. 1. As used in this chapter, "affected landowner" means an**
6 **owner of real property in Indiana, as determined by the tax**
7 **records of the county in which the property is located, whose**
8 **interest in the property:**

9 (1) **will be crossed or used by a proposed pipeline;**

10 (2) **contains a residence that is located within one-half (1/2)**
11 **mile of a proposed pipeline; or**

12 (3) **is otherwise affected by the construction of a proposed**
13 **pipeline, as determined by the division in rules adopted under**
14 **section 7(b) of this chapter.**

15 **Sec. 2. As used in this chapter, "commission" refers to the**
16 **Indiana utility regulatory commission created by IC 8-1-1-2.**

17 **Sec. 3. As used in this chapter, "department" refers to the**

C
o
p
y



department of agriculture established by IC 15-9-2-1.

Sec. 4. As used in this chapter, "division" refers to the pipeline safety division of the Indiana utility regulatory commission established by IC 8-1-22.5-2.

Sec. 5. As used in this chapter, "pipeline" has the meaning set forth in IC 8-1-22.5-1(c).

Sec. 6. As used in this chapter, "pipeline company " means a person (as defined in IC 8-1-22.5-1(e)) that proposes to construct a pipeline that will be located, in whole or in part, in Indiana.

Sec. 7. (a) Not later than September 1, 2007, the division, in consultation with the department, shall adopt emergency rules under IC 4-22-2-37.1 to adopt standards governing the construction of pipelines that will be located, in whole or in part, in Indiana. The rules adopted by the division under this section must include the following:

(1) Standards specifying minimum depths at which a pipeline must be buried based on the topography and use of the land. With respect to burial depths with respect to land that is used as agricultural land, the division shall:

(A) base the standards on the recommendations of the department; and

(B) specify depths that are appropriate for the land based on whether the land:

(i) is used for crops or as pasture; or

(ii) is comprised of soils that are classified by the United States Department of Agriculture as being prime soils.

(2) Standards for replacing topsoil removed during excavations performed in connection with pipeline construction or burial. Standards adopted under this subdivision may include requirements for any of the following:

(A) The segregation of topsoil and subsoil during excavation.

(B) The removal of construction debris or other materials from the topsoil before replacement.

(C) The prevention of topsoil erosion.

(D) The alleviation of topsoil compaction.

(3) Standards requiring a pipeline company to prevent or remedy damage to underground drainage tiles during construction of the pipeline. Standards adopted under this subdivision may require a pipeline company to do any of the following:

C
o
p
y



- 1 (A) Take certain actions to prevent damage to
 2 underground drainage tiles, including locating and staking
 3 all tile lines before construction.
 4 (B) Maintain a specified distance between underground
 5 drainage tiles and the pipeline during the placement or
 6 construction of the pipeline.
 7 (C) Repair or replace any underground drainage tiles that
 8 are damaged during construction.
 9 (4) Standards for the removal of construction debris from a
 10 landowner's property during and after all construction
 11 activity.
 12 (5) Standards for restoring land to its preconstruction
 13 condition, including the restoration of the land's elevation and
 14 contour through leveling or other land restoration practices.
 15 (6) Standards for:
 16 (A) compensating landowners for damage to private
 17 property as a result of construction activities; or
 18 (B) repairing or replacing private property that is
 19 damaged as a result of construction activities.
 20 Standards adopted under this subdivision may specify that a
 21 pipeline company's obligations with respect to damaged
 22 property extends beyond the initial construction of the
 23 pipeline to include damages caused by the pipeline company
 24 during future construction, operation, maintenance, and
 25 repair activities related to the pipeline.
 26 (7) Standards requiring a pipeline company to provide a
 27 landowner advance notice before entering private property to
 28 perform inspection, construction, or maintenance activities
 29 related to the pipeline.
 30 (8) Standards requiring a pipeline company to indemnify
 31 landowners against any claims or damages arising from:
 32 (A) the pipeline company's construction, maintenance,
 33 operation, repair, removal, or use of the pipeline on the
 34 landowner's property; or
 35 (B) the existence of the pipeline on the landowner's
 36 property;
 37 except for claims or damages arising from the intentional acts
 38 or willful omissions of a landowner.
 39 (9) Any other standards the division, in consultation with the
 40 department, determines are necessary and in the public
 41 interest.
 42 (b) In addition to the rules required by subsection (a), the

C
O
P
Y



1 division shall adopt emergency rules under IC 4-22-2-37.1 to
 2 establish standards for determining affected landowners entitled
 3 to notice under section 9 of this chapter. The division shall adopt
 4 the rules required by this subsection not later than September 1,
 5 2007.

6 (c) Notwithstanding the adoption of standards by the division
 7 under subsection (a), an affected landowner is entitled to negotiate
 8 for different construction standards with a pipeline company in the
 9 course of any negotiations involved in establishing a price for any:

10 (1) easement; or

11 (2) other interest in land;

12 needed by the pipeline company to construct the pipeline.

13 (d) In adopting the rules required by subsection (a), the division
 14 shall consider adopting less intrusive or less costly alternative
 15 standards for pipeline companies that locate, or plan to locate, a
 16 pipeline along existing rights of way or easements. The division
 17 shall consider the following methods of minimizing the burdens or
 18 costs of compliance for pipeline companies described in this
 19 subsection:

20 (1) The establishment of less stringent construction,
 21 maintenance, or repair requirements.

22 (2) The establishment of less stringent schedules or deadlines
 23 for construction, maintenance, or repair activities.

24 (3) The consolidation or simplification of construction,
 25 maintenance, or repair requirements.

26 (4) An exemption from part or all of the requirements or costs
 27 imposed by a particular standard.

28 (e) In adopting the rules required by subsection (a), the division
 29 may consult with other states, or agencies of other states, that have
 30 adopted similar standards for the construction of pipelines. The
 31 division may also consult with any of the following:

32 (1) Other state agencies in Indiana.

33 (2) Any political subdivisions in Indiana in which pipelines are
 34 located or proposed to be located.

35 (3) Public utilities, municipally owned utilities, or
 36 cooperatively owned utilities.

37 (4) Pipeline companies.

38 (5) Organizations representing agricultural interests in
 39 Indiana.

40 (6) Other individuals or organizations that have an interest in,
 41 or are knowledgeable about, pipelines or pipeline
 42 construction.

C
o
p
y



(f) An emergency rule adopted by the division under this section expires on the date a permanent rule is adopted by the division under IC 4-22-2.

Sec. 8. (a) For purposes of this section, a pipeline company proposes to construct a pipeline in Indiana if it does any of the following:

(1) Files an application for a certificate of public convenience and necessity with the Federal Energy Regulatory Commission.

(2) Undertakes:

(A) environmental, engineering, or cultural surveys; or

(B) other studies or surveys;

in Indiana in preparation for filing an application described in subdivision (1).

(3) Holds public meetings or hearings in Indiana concerning a proposed pipeline.

(4) Enters upon land in Indiana for the purpose of determining the route or location of a proposed pipeline.

(5) Contacts landowners in Indiana for the purpose of negotiating the price for:

(A) easements; or

(B) other interests in land;

necessary for the construction of a pipeline.

(6) Undertakes other actions in preparation for the construction of a pipeline.

(b) The division shall send, by certified mail, the following to each pipeline company that proposes to construct a pipeline in Indiana:

(1) A copy of the standards adopted by the division under section 7 of this chapter.

(2) A notice that includes the following:

(A) A statement that the division has adopted the pipeline construction standards included with the notice.

(B) A statement indicating that the pipeline construction standards have been mailed to all affected landowners, as determined by the division under section 9(a) of this chapter.

(C) A statement explaining that individual landowners are entitled to negotiate for different construction standards with the pipeline company in the course of any negotiations involved in establishing a price for any:

(i) easement; or

C
o
p
y



(ii) other interest in land;

needed by the pipeline company to construct the pipeline.

(D) A statement including the contact information for the one (1) or more project coordinators designated by the division under section 10 of this chapter.

(c) The division shall mail the standards and notice in accordance with subsection (b):

(1) as soon as the division learns of the proposed pipeline as a result of the pipeline company performing one (1) or more actions described in subsection (a); or

(2) not later than three (3) business days after the Federal Energy Regulatory Commission provides notice under 18 CFR 157.9(a) of the pipeline company's application for a certificate of territorial authority;

whichever occurs earlier.

Sec. 9. (a) For purposes of this section, the division shall, to the extent practicable, determine affected landowners with respect to a proposed pipeline project from any of the following:

(1) Any actions described in section 8(a) of this chapter that are undertaken by the pipeline company.

(2) Any information on the pipeline's location, including any maps, that is included in a notice given by:

(A) the pipeline company under 18 CFR 157.6(d)(1); or

(B) the Federal Energy Regulatory Commission under 18 CFR 157.9(a).

(3) The tax records of each county that contains land that will be crossed or used by the proposed pipeline.

(4) The standards adopted by the division under section 7(b) of this chapter.

(b) The division shall send, by certified mail, the following to each affected landowner:

(1) A copy of the standards adopted by the division under section 7 of this chapter.

(2) A notice that includes the following:

(A) A statement that the division has adopted the pipeline construction standards included with the notice.

(B) A statement indicating that the pipeline construction standards have been mailed to the pipeline company.

(C) A statement explaining that individual landowners are entitled to negotiate for different construction standards with the pipeline company in the course of any negotiations involved in establishing a price for any:

C
o
p
y



- (i) easement; or
 - (ii) other interest in land;
- needed by the pipeline company to construct the pipeline.

(D) A statement including:

- (i) contact information for the one (1) or more project coordinators designated by the division under section 10 of this chapter;
- (ii) contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number; and
- (iii) the commission's web site address.

(c) The division shall mail the standards and notice in accordance with subsection (b):

- (1) as soon as the division learns of the proposed pipeline as a result of the pipeline company performing one (1) or more actions described in section 8(a) of this chapter; or
- (2) not later than three (3) business days after the Federal Energy Regulatory Commission provides notice under 18 CFR 157.9(a) of the pipeline company's application for a certificate of territorial authority;

whichever occurs earlier.

Sec. 10. For each proposed or ongoing pipeline project in Indiana, the director of the division shall designate one (1) or more employees of the division to serve as project coordinators for the division. The director shall ensure that one (1) or more of the coordinators designated under this section are responsible for the following duties concerning the project:

- (1) Monitoring all:**
 - (A) filings with; and**
 - (B) proceedings before;**
the Federal Energy Regulatory Commission.
- (2) Attending all public hearings or meetings concerning the project that are held in Indiana.**
- (3) Cooperating with the department to:**
 - (A) keep the department informed of the status of the project; and**
 - (B) monitor the concerns of owners of agricultural land.**
- (4) Receiving and responding to questions and complaints about the project from Indiana residents.**
- (5) Updating the information required to be made available on the commission's web site under section 12 of this chapter.**
- (6) Any other duties assigned by the director of the division.**

**C
o
p
y**



1 **Sec. 11. For each proposed or ongoing pipeline project in**
 2 **Indiana, the director of the department shall designate one (1) or**
 3 **more employees of the department to serve as project coordinators**
 4 **for the department. The director shall ensure that one (1) or more**
 5 **of the coordinators designated under this subsection are**
 6 **responsible for the following duties concerning the project:**

7 **(1) Attending all public hearings or meetings concerning the**
 8 **project that are held in Indiana communities containing**
 9 **agricultural land.**

10 **(2) Cooperating with the division to:**

11 **(A) stay informed of the status of the project; and**

12 **(B) monitor the concerns of owners of agricultural land.**

13 **(3) Receiving and responding to questions and complaints**
 14 **about the project from owners of agricultural land.**

15 **(4) Updating the information required to be made available**
 16 **on the department's web site under section 13 of this chapter.**

17 **(5) Any other duties assigned by the director of the division.**

18 **Sec. 12. (a) The division shall make the following available on**
 19 **the commission's web site:**

20 **(1) The standards adopted by the division under section 7 of**
 21 **this chapter.**

22 **(2) For each proposed or ongoing pipeline construction**
 23 **project in Indiana, the following information:**

24 **(A) A description of the pipeline company and the pipeline**
 25 **project, including:**

26 **(i) the pipeline's location, purpose, and construction**
 27 **schedule; and**

28 **(ii) the docket number assigned to the project by the**
 29 **Federal Energy Regulatory Commission.**

30 **(B) Contact information for the pipeline company,**
 31 **including a local or toll free telephone number.**

32 **(C) Contact information for the Federal Energy**
 33 **Regulatory Commission, including a local or toll free**
 34 **telephone number.**

35 **(D) Contact information for the one (1) or more project**
 36 **coordinators designated under section 10 of this chapter to**
 37 **receive and respond to questions and complaints from**
 38 **Indiana residents.**

39 **(E) A statement that owners of agricultural land may**
 40 **contact the department for further information concerning**
 41 **the pipeline construction standards concerning**
 42 **agricultural land. The statement under this section must**

C
O
P
Y



include:

(i) the contact information for the one (1) or more project coordinators designated by the department under section 11 of this chapter to receive and respond to questions and complaints from owners of agricultural land; and

(ii) a link to the department's web site.

(F) Information on public hearings or meetings that are scheduled in connection with the pipeline project.

(G) Other information concerning the pipeline project that the division considers relevant or of likely concern to Indiana residents.

(b) The division shall update the information required under subsection (a)(1) whenever:

(1) one (1) or more standards adopted under section 7 of this chapter are amended or repealed by the division; or

(2) one (1) or more new standards are adopted by the division.

(c) The division shall update the information required under subsection (a)(2) on a regular basis throughout the course of a pipeline project. The division shall ensure that all information on the division's web site concerning a pipeline project is accurate, current, and accessible. The director of the division shall assign the responsibility of complying with this subsection to one (1) or more project coordinators designated under section 10 of this chapter.

Sec. 13. (a) The department shall make the following available on the department's web site:

(1) The standards adopted by the division under section 7 of this chapter.

(2) For each proposed or ongoing pipeline construction project in Indiana, the following information:

(A) Contact information for the one (1) or more project coordinators designated under section 11 of this chapter to receive and respond to questions and complaints about the project from owners of agricultural land.

(B) Contact information for the pipeline company, including a local or toll free telephone number.

(C) Contact information for the Federal Energy Regulatory Commission, including a local or toll free telephone number.

(D) A statement that interested persons may contact the division for further information on the pipeline project. The statement under this section must include:

C
o
p
y



- (i) the contact information for the one (1) or more project coordinators designated by the division under section 10 of this chapter to receive and respond to questions and complaints from Indiana residents; and
 (ii) a link to the commission's web site.

(E) Other information concerning the pipeline project that the department considers relevant or of likely concern to owners of agricultural land.

(b) The department shall update the information required under subsection (a)(1) whenever it receives notice that:

- (1) one (1) or more standards adopted under section 7 of this chapter have been amended or repealed by the division; or
 (2) one (1) or more new standards have been adopted by the division.

(c) The department shall ensure that all information on the department's web site concerning a particular pipeline project is accurate, current, and accessible. The director of the department shall assign the responsibility of complying with this subsection to one (1) or more project coordinators designated under section 11 of this chapter.

SECTION 2. An emergency is declared for this act.

**C
O
P
Y**

